



October 14, 2008

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

Re: WT Docket No. 08-165; CTIA petition for Declaratory Ruling

Dear Secretary Dortch:

The National Agricultural Aviation Association (NAAA) is submitting this comment to express our concern with the petition filed by the CTIA – The Wireless Association to automatically grant wireless antenna or tower zoning applications if local governments miss a specified response deadline. The NAAA believes that any attempt to preempt local zoning would adversely affect safety to members of our industry in the performance of their aviation activities.

NAAA represents licensed commercial applicators that use aircraft to enhance food, fiber and bio-fuel production, protect forestry and control health-threatening pests. There are approximately 1,600 aerial application businesses in the contiguous 48 states. According to the U.S. Department of Agriculture, aerial application accounts for almost 25% of commercial crop protection applications and nearly 100% of forest protection applications.

The operation of agricultural aircraft in applying agricultural inputs to crops is a complex exercise requiring skill and the utmost concentration. These pilots fly at low altitudes at high speeds while simultaneously applying product. U.S. agricultural pilots perform these complex operations with an exceptional rate of safety during busy crop-growing seasons while flying low to the ground where concentration is needed to stay clear from trees, towers, wires and other low altitude obstacles. To effectively fly in these conditions, agricultural pilots train extensively. If the timing of local zoning rules and ordinances of tower siting are preempted as called for in proposed WT Docket 08-165, it could lead to tower placements that significantly alter agricultural aircraft flight paths. This could detrimentally effect our industry's excellent safety record.

Our industry believes that Federal rules pertaining to the construction of towers already provide few protections for the safety of agricultural pilots. Federal Aviation Regulation (FAR) Part 77 requires a sponsor planning to construct a tower 200 feet or greater in height to apply for review by the Federal Aviation Administration (FAA) and coordination with the Federal Communications Commission (FCC). Unfortunately, towers to be constructed less than 200 feet above ground level are not controlled by this procedure. The applications are reviewed by the FAA to determine potential flight hazard and determine if the tower site will be a factor in aviation safety but primarily to public airports. Many agricultural aviation operations are on private use airports and are not provided the same protections by the FAA. In many instances towers have been constructed dangerously close to the landing paths at private airports. This is a problem for any airport, but even more of a concern for agricultural aviators, coming and going all day at lower altitudes than the average passenger plane.

Currently, the only course of action available to private airport owners to prevent encroachment into airspace critical for safe operation is from their local zoning authorities, which has the sole authority to protect airspace through local zoning laws. Proposed preemptions in WT Docket No. 08-165 compromises this protection and the protection of agricultural aviation safety. This change, if promulgated, will mandate that state and local government zoning agencies have short time periods to review applications for tower construction within their jurisdiction and enable the FCC to preempt a local government's decision not to allow tower construction. It is important that local zoning authorities have the sole authority and as much time as they deem necessary to conduct a thorough review of the effect a proposed tower will have on the local area. This will make available sufficient time for agricultural aviation operations and nearby farmers to be informed of a potential safety threat and share their comments to the zoning authorities.

Moreover, without wise placement of towers in agricultural areas farmers could be at risk of losing important aerial application services performed on their cropland because towers sited directly in the flight paths of aerial applicators' private use airports could literally shut-down that applicators' business. In addition, tower placement could limit the access to adjacent agricultural fields for treatment by aircraft. This would detrimentally effect the only method farmers have available to them when the time comes to apply crop protection chemicals, fertilizers and seeds to foster crop growth. Aerial application is the fastest method available in applying these agricultural outputs, it is also the only service that can be used if agricultural soil is too moist for ground rigs to enter a field. Furthermore, aerial application allows farmers greater yields because crops can be grown without forming wheel tracks by ground rigs while applying outputs; instead the entire field can be utilized to grow crops, which is the most efficient and environmentally sound method. Promulgation of the proposed rule change may prevent farmers enough time to become informed and comment to their

local zoning authority about prospective tower construction that may jeopardize the ability for aerial application services to be provided to their crops, hence threatening their livelihood.

The NAAA appreciates the opportunity to comment on proposed WT Docket No. 08-165 and believes final promulgation of the rule limiting local government's review periods for tower construction will jeopardize aviation safety and potentially inhibit tools American farmers use in producing an abundant, affordable and safe supply of food, fiber and bio-fuels to the nation and the world.

Sincerely,

A handwritten signature in dark ink, appearing to read "Andrew D. Moore". The signature is fluid and cursive, with the first name "Andrew" being the most prominent.

Andrew D. Moore
Executive Director